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S.B. CIVIL REVISION PETITION NO.534/1996.
(Bhanwar Lal & Ors. Vs. Mangi Lal)

Date of Order :: 15.12.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Arvind Samdariya with
Mr. Balaram Kumawat, for the petitioners
Mr. S.P. Sharma, for the non-petitioner.

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After attempting to argue the matter for some, learned counsel for the petitioners submitted that the petitioner sought to contend before the trial court that the suit in question was barred by the principles of res judicata as envisaged by Section 11 of the Code of Civil Procedure particularly in view of the judgment and decree dated 04.03.1994 passed by the Additional District Judge, Sojat in Civil Suit No.200/1992; and the application for the purpose moved by the petitioner was rejected by the trial court by the impugned order; and the said judgment and decree is the subject matter of first appeal before this Court that is already posted for hearing; therefore, in the overall circumstances of the case while not pressing this revision petition against the order dated 08.04.1996, the petitioner shall stand advised to take appropriate pleadings in relation to the objection of operation of the principles of res judicata and to request the trial court to frame proper issue in that regard. Learned counsel Mr. S.P. Sharma appearing for

the non-petitioner could also not put any objection to this proposition but submitted that in case of the petitioner seeking to take such pleadings, the plaintiff-non-petitioner may be permitted to put appropriate response thereto. It goes without saying that if a new plea is taken by the petitioner in his written statement, the plaintiff-non-petitioner could always request the trial court to permit him to submit additional pleadings.

In view of the submissions made by the learned counsel for the parties, this revision petition is dismissed as not pressed so far it relates to the order dated 08.04.1996; with liberty to the parties to submit additional pleadings in accordance with law.

No costs.

(DINESH MAHESHWARI), J.

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